

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 12-134(DSD)

United States of America,

Plaintiff,

v.

ORDER

Michael Romeo Geraci,

Defendant.

Surya Saxena, Assistant U.S. Attorney, 200 South Fourth Street, Suite 600, Minneapolis, MN 55415, counsel for plaintiff.

Michael Romeo Geraci, No. 16492-041, FCI-Estill, P.O. Box 699, Estill, SC 29918, pro se.

This matter is before the court upon the pro se motion by defendant Michael Romeo Geraci to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255.

This is the second such motion filed by Geraci. On April 21, 2015, the court denied his previous § 2255 motion. ECF No. 74. He thereafter filed the instant motion and, later, a motion to amend. ECF Nos. 80, 89. Before doing so, however, he filed a petition with the Eighth Circuit Court of Appeals requesting permission to file a successive habeas petition. See Geraci v. United States, No. 16-221 (8th Cir. filed May 13, 2016).

Under federal law, a "claim presented in a second or successive habeas corpus petition ... that was presented in a prior application shall be dismissed," unless the applicant can show that

the claim relies on a new and retroactive rule of constitutional law or newly discovered facts. 28 U.S.C. § 2244(b). "[F]ederal prisoners may not file second or successive § 2255 motions without an appropriate certification from the circuit court." Boykin v. United States, 242 F.3d 373, at *1 (8th Cir. 2000) (per curiam) (citations and internal quotation marks omitted).

On September 26, 2017, the Eighth Circuit denied Geraci's petition to file a successive motion under § 2255. ECF No. 91. As a result, the court lacks jurisdiction to hear Geraci's motion.

Accordingly, based on the above, **IT IS HEREBY ORDERED** that:

1. The motion to vacate, set aside, or correct sentence is denied [ECF No. 80];
2. The motion to amend/correct motion to vacate [ECF No. 89] is denied; and
3. The case is dismissed with prejudice.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: September 28, 2017

s/David S. Doty
David S. Doty, Judge
United States District Court